

upon such a motion at any time after a copy has been served upon all parties.

(f) The party that requests the DRO to issue a subpoena or order under this section shall be responsible for the payment of fees and mileage, as required by 49 U.S.C. 46104(d), for witnesses, officers who serve the order, and the officer before whom a deposition is taken.

(g) Subpoenas and orders issued under this section may be enforced in a judicial proceeding under 49 U.S.C. 46104(b).

#### **§ 17.55 Standing orders of the ODRA Director.**

The Director may issue such Standing Orders as necessary for the orderly conduct of business before the ODRA.

### **Subpart G—Pre-Disputes**

#### **§ 17.57 Dispute resolution process for Pre-disputes.**

(a) All potential disputes arising under contracts or solicitations with the FAA may be resolved with the consent of the parties to the dispute under this subpart.

(b) Pre-disputes shall be filed with the ODRA pursuant to § 17.59.

(c) The time limitations for the filing of Protests and Contract Disputes established in §§ 17.15(a) and 17.27(c) will not be extended by efforts to resolve the dispute under this subpart.

#### **§ 17.59 Filing a Pre-dispute.**

(a) A Pre-dispute must be in writing, affirmatively state that it is a Pre-dispute pursuant to this subpart, and shall contain:

(1) The party's name, address, telephone and Fax numbers and the name, address, telephone and Fax numbers of the contractor's legal representative(s) (if any);

(2) The contract or solicitation number and the name of the Contracting Officer;

(3) A chronological statement of the facts and of the legal grounds for the party's positions regarding the dispute citing to relevant contract or solicitation provisions and documents and attaching copies of those provisions and documents; and

(4) The signature of a duly authorized legal representative of the initiating party.

(b) Pre-disputes shall be filed at the following address: ODRA, AGC-70, Federal Aviation Administration, 800 Independence Avenue, SW., Room 323, Washington, DC 20591; Telephone: (202) 267-3290, Fax: (202) 267-3720.

(c) Upon the filing of a Pre-dispute with the ODRA, the ODRA will contact the opposing party to offer its services pursuant to § 17.57. If the opposing party agrees, the ODRA will provide Pre-dispute services. If the opposing party does not agree, the ODRA Pre-dispute file will be closed and no service will be provided.

#### **§ 17.61 Use of alternative dispute resolution.**

(a) Only non-binding, voluntary ADR will be used to attempt to resolve a Pre-dispute pursuant to § 17.37.

(b) ADR conducted under this subpart is subject to the confidentiality requirements of § 17.39.

#### **APPENDIX A TO PART 17—ALTERNATIVE DISPUTE RESOLUTION (ADR)**

A. The FAA dispute resolution procedures encourage the parties to protests and contract disputes to use ADR as the primary means to resolve protests and contract disputes, pursuant to the Administrative Dispute Resolution Act of 1996, Public Law 104-320, 5 U.S.C. 570-579, and Department of Transportation and FAA policies to utilize ADR to the maximum extent practicable. Under the procedures presented in this part, the ODRA encourages parties to consider ADR techniques such as case evaluation, mediation, or arbitration.

B. ADR encompasses a number of processes and techniques for resolving protests or contract disputes. The most commonly used types include:

(1) *Mediation*. The neutral or compensated neutral ascertains the needs and interests of both parties and facilitates discussions between or among the parties and an amicable resolution of their differences, seeking approaches to bridge the gaps between the parties' respective positions. The neutral or compensated neutral can meet with the parties separately, conduct joint meetings with the parties' representatives, or employ both methods in appropriate cases.

(2) *Neutral Evaluation*. At any stage during the ADR process, as the parties may agree, the neutral or compensated neutral will provide a candid assessment and opinion of the